

108TH CONGRESS  
1ST SESSION

# S. 1801

To promote the economic security and safety of victims of domestic and sexual violence, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

OCTOBER 30, 2003

Mrs. MURRAY (for herself, Mr. CORZINE, Mr. SCHUMER, and Mr. DAYTON) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To promote the economic security and safety of victims of domestic and sexual violence, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Security and Financial Empowerment Act” or the  
6       “SAFE Act”.

7       (b) TABLE OF CONTENTS.—The table of contents for  
8       this Act is as follows:

Sec. 1. Short title; table of contents.  
Sec. 2. Findings.  
Sec. 3. Definitions.

TITLE I—ENTITLEMENT TO EMERGENCY LEAVE FOR  
ADDRESSING DOMESTIC OR SEXUAL VIOLENCE

- Sec. 101. Purposes.
- Sec. 102. Entitlement to emergency leave for addressing domestic or sexual violence.
- Sec. 103. Existing leave usable for addressing domestic or sexual violence.
- Sec. 104. Emergency benefits.
- Sec. 105. Effect on other laws and employment benefits.
- Sec. 106. Conforming amendments.
- Sec. 107. Effective date.

TITLE II—ENTITLEMENT TO UNEMPLOYMENT COMPENSATION  
FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE,  
SEXUAL ASSAULT, OR STALKING

- Sec. 201. Purposes.
- Sec. 202. Unemployment compensation and training provisions.

TITLE III—VICTIMS’ EMPLOYMENT SUSTAINABILITY

- Sec. 301. Short title.
- Sec. 302. Purposes.
- Sec. 303. Prohibited discriminatory acts.
- Sec. 304. Enforcement.
- Sec. 305. Attorney’s fees.

TITLE IV—VICTIMS OF ABUSE INSURANCE PROTECTION

- Sec. 401. Short title.
- Sec. 402. Definitions.
- Sec. 403. Discriminatory acts prohibited.
- Sec. 404. Insurance protocols for subjects of abuse.
- Sec. 405. Reasons for adverse actions.
- Sec. 406. Life insurance.
- Sec. 407. Subrogation without consent prohibited.
- Sec. 408. Enforcement.
- Sec. 409. Effective date.

TITLE V—WORKPLACE SAFETY PROGRAM TAX CREDIT

- Sec. 501. Credit for costs to employers of implementing workplace safety programs.

TITLE VI—NATIONAL CLEARINGHOUSE ON DOMESTIC AND  
SEXUAL VIOLENCE IN THE WORKPLACE GRANT

- Sec. 601. National clearinghouse on domestic and sexual violence in the workplace grant.

TITLE VII—SEVERABILITY

- Sec. 701. Severability.

**1 SEC. 2. FINDINGS.**

**2** Congress makes the following findings:

1           (1) Domestic violence crimes account for ap-  
2           proximately 15 percent of total crime costs in the  
3           United States each year.

4           (2) Violence against women has been reported  
5           to be the leading cause of physical injury to women.  
6           Such violence has a devastating impact on women's  
7           physical and emotional health and financial security.

8           (3) According to a recent National Institutes of  
9           Health—Centers for Disease Control and Prevention  
10          study, each year there are 5,300,000 non-fatal vio-  
11          lent victimizations committed by intimate partners  
12          against women. Female murder victims were sub-  
13          stantially more likely than male murder victims to  
14          have been killed by an intimate partner. About  $\frac{1}{3}$  of  
15          female murder victims, and about 4 percent of male  
16          murder victims, were killed by an intimate partner.

17          (4) According to recent government estimates,  
18          approximately 987,400 rapes occur annually in the  
19          United States, 89 percent of the rapes perpetrated  
20          against female victims. Since 2001, rapes have actu-  
21          ally increased by 4 percent.

22          (5) Approximately 10,200,000 people have been  
23          stalked at some time in their lives. Four out of every  
24          5 stalking victims are women. Stalkers harass and  
25          terrorize their victims by spying on the victims,

1 standing outside their places of work or homes, mak-  
2 ing unwanted phone calls, sending or leaving un-  
3 wanted letters or items, or vandalizing property.

4 (6) Employees in the United States who have  
5 been victims of domestic violence, dating violence,  
6 sexual assault, or stalking too often suffer adverse  
7 consequences in the workplace as a result of their  
8 victimization.

9 (7) Victims of domestic violence, dating vio-  
10 lence, sexual assault, and stalking are particularly  
11 vulnerable to changes in employment, pay, and bene-  
12 fits as a result of their victimizations, and are,  
13 therefore, in need of legal protection.

14 (8) The prevalence of domestic violence, dating  
15 violence, sexual assault, stalking, and other violence  
16 against women at work is dramatic. About 36,500  
17 individuals, 80 percent of whom are women, were  
18 raped or sexually assaulted in the workplace each  
19 year from 1993 through 1999. Half of all female  
20 victims of violent workplace crimes know their  
21 attackers. Nearly 1 out of 10 violent workplace inci-  
22 dents are committed by partners or spouses. Women  
23 who work for State and local governments suffer a  
24 higher incidence of workplace assaults, including  
25 rapes, than women who work in the private sector.

1           (9) Homicide is the leading cause of death for  
2       women on the job. Husbands, boyfriends, and ex-  
3       partners commit 15 percent of workplace homicides  
4       against women.

5           (10) Studies indicate that between 35 and 56  
6       percent of employed battered women surveyed were  
7       harassed at work by their abusive partners.

8           (11) According to a 1998 report of the General  
9       Accounting Office, between  $\frac{1}{4}$  and  $\frac{1}{2}$  of domestic  
10      violence victims surveyed in 3 studies reported that  
11      the victims lost a job due, at least in part, to domes-  
12      tic violence.

13          (12) Women who have experienced domestic vi-  
14      olence or dating violence are more likely than other  
15      women to be unemployed, to suffer from health  
16      problems that can affect employability and job per-  
17      formance, to report lower personal income, and to  
18      rely on welfare.

19          (13) Abusers frequently seek to control their  
20      partners by actively interfering with their ability to  
21      work, including preventing their partners from going  
22      to work, harassing their partners at work, limiting  
23      the access of their partners to cash or transpor-  
24      tation, and sabotaging the child care arrangements  
25      of their partners.

1           (14) More than  $\frac{1}{2}$  of women receiving welfare  
2           have been victims of domestic violence as adults and  
3           between  $\frac{1}{4}$  and  $\frac{1}{3}$  reported being abused in the last  
4           year.

5           (15) Victims of intimate partner violence lose  
6           8,000,000 days of paid work each year—the equiva-  
7           lent of over 32,000 full-time jobs and 5,600,000  
8           days of household productivity.

9           (16) Sexual assault, whether occurring in or out  
10          of the workplace, can impair an employee's work  
11          performance, require time away from work, and un-  
12          dermine the employee's ability to maintain a job. Al-  
13          most 50 percent of sexual assault survivors lose their  
14          jobs or are forced to quit in the aftermath of the as-  
15          saults.

16          (17) More than 35 percent of stalking victims  
17          report losing time from work due to the stalking and  
18          7 percent never return to work.

19          (18)(A) According to the National Institute of  
20          Justice, crime costs an estimated \$450,000,000,000  
21          annually in medical expenses, lost earnings, social  
22          service costs, pain, suffering, and reduced quality of  
23          life for victims, which harms the Nation's produc-  
24          tivity and drains the Nation's resources.

1           (B)       Violent       crime       accounts       for  
2       \$426,000,000,000 per year of this amount.

3           (C) Rape exacts the highest costs per victim of  
4       any       criminal       offense,       and       accounts       for  
5       \$127,000,000,000 per year of the amount described  
6       in subparagraph (A).

7           (19) Violent crime results in wage losses equiv-  
8       alent to 1 percent of all United States earnings, and  
9       causes 3 percent of the Nation's medical spending  
10      and 14 percent of the Nation's injury-related med-  
11      ical spending.

12          (20) The Bureau of National Affairs has esti-  
13      mated that domestic violence costs United States  
14      employers       between       \$3,000,000,000       and  
15      \$5,000,000,000 annually in lost time and produc-  
16      tivity, while other reports have estimated the cost at  
17      between \$5,800,000,000 and \$13,000,000,000 annu-  
18      ally.

19          (21) United States medical costs for domestic  
20      violence have been estimated to be \$31,000,000,000  
21      per year.

22          (22) Surveys of business executives and cor-  
23      porate security directors also underscore the heavy  
24      toll that workplace violence takes on women, busi-

1 nesses, and interstate commerce in the United  
2 States.

3 (23) Ninety-four percent of corporate security  
4 and safety directors at companies nationwide rank  
5 domestic violence as a high security concern.

6 (24) Forty-nine percent of senior executives re-  
7 cently surveyed said domestic violence has a harmful  
8 effect on their company's productivity, 47 percent  
9 said domestic violence negatively affects attendance,  
10 and 44 percent said domestic violence increases  
11 health care costs.

12 (25) Only 25 States have laws that explicitly  
13 provide unemployment insurance to domestic vio-  
14 lence victims in certain circumstances, and none of  
15 the laws explicitly cover victims of sexual assault or  
16 stalking.

17 (26) Only 6 States provide domestic violence  
18 victims with leave from work to go to court, to the  
19 doctor, or to take other steps to address the domes-  
20 tic violence in their lives, and only Maine provides  
21 such leave to victims of sexual assault and stalking.

22 (27) No States prohibit employment discrimina-  
23 tion against victims of domestic violence, sexual as-  
24 sault, or stalking. Five States provide limited protec-  
25 tion to some victims under certain circumstances.



1           (28) Employees, including individuals partici-  
2           pating in welfare to work programs, may need to  
3           take time during business hours to—

4                   (A) obtain orders of protection;

5                   (B) seek medical or legal assistance, coun-  
6           seling, or other services; or

7                   (C) look for housing in order to escape  
8           from domestic violence.

9           (29) Domestic and sexual violence victims have  
10          been subjected to discrimination by private and  
11          State employers, including discrimination motivated  
12          by sex and stereotypic notions about women.

13          (30) Domestic violence victims and third parties  
14          who help them have been subjected to discriminatory  
15          practices by health, life, disability, and property and  
16          casualty insurers and employers who self-insure em-  
17          ployee benefits who have denied or canceled cov-  
18          erage, rejected claims, and raised rates based on do-  
19          mestic violence. Although some State legislatures  
20          have tried to address these problems, the scope of  
21          protection afforded by the laws adopted varies from  
22          State to State, with many failing to address the  
23          problem comprehensively. Moreover, Federal law  
24          prevents States from protecting the almost 40 per-

1 cent of employees whose employers self-insure em-  
2 ployee benefits.

3 (31) Existing Federal law does not explicitly—

4 (A) authorize victims of domestic violence,  
5 dating violence, sexual assault, or stalking to  
6 take leave from work to seek legal assistance  
7 and redress, counseling, or assistance with safe-  
8 ty planning activities;

9 (B) address the eligibility of victims of do-  
10 mestic violence, dating violence, sexual assault,  
11 or stalking for unemployment compensation;

12 (C) prohibit employment discrimination  
13 against actual or perceived victims of domestic  
14 violence, dating violence, sexual assault, or  
15 stalking; or

16 (D) prohibit insurers and employers who  
17 self-insure employee benefits from discrimi-  
18 nating against domestic violence victims and  
19 those who help them in determining eligibility,  
20 rates charged, and standards for payment of  
21 claims; nor does it prohibit insurers from dislo-  
22 sure of information about abuse and the vic-  
23 tim's location through insurance databases and  
24 other means.

1 **SEC. 3. DEFINITIONS.**

2 In this Act, except as otherwise expressly provided:

3 (1) **COMMERCE.**—The terms “commerce” and  
4 “industry or activity affecting commerce” have the  
5 meanings given the terms in section 101 of the  
6 Family and Medical Leave Act of 1993 (29 U.S.C.  
7 2611).

8 (2) **COURSE OF CONDUCT.**—The term “course  
9 of conduct” means a course of repeatedly maintain-  
10 ing a visual or physical proximity to a person or con-  
11 veying verbal or written threats, including threats  
12 conveyed through electronic communications, or  
13 threats implied by conduct.

14 (3) **DATING VIOLENCE.**—The term “dating vio-  
15 lence” has the meaning given the term in section  
16 826 of the Higher Education Amendments of 1998  
17 (20 U.S.C. 1152).

18 (4) **DOMESTIC OR SEXUAL VIOLENCE.**—The  
19 term “domestic or sexual violence” means domestic  
20 violence, dating violence, sexual assault, or stalking.

21 (5) **DOMESTIC VIOLENCE.**—The term “domestic  
22 violence” has the meaning given the term in section  
23 826 of the Higher Education Amendments of 1998  
24 (20 U.S.C. 1152).

25 (6) **DOMESTIC VIOLENCE COALITION.**—The  
26 term “domestic violence coalition” means a non-

1 profit, nongovernmental membership organization  
 2 that—

3 (A) consists of the entities carrying out a  
 4 majority of the domestic violence programs car-  
 5 ried out within a State;

6 (B) collaborates and coordinates activities  
 7 with Federal, State, and local entities to further  
 8 the purposes of domestic violence intervention  
 9 and prevention; and

10 (C) among other activities, provides train-  
 11 ing and technical assistance to entities carrying  
 12 out domestic violence programs within a State,  
 13 territory, political subdivision, or area under  
 14 Federal authority.

15 (7) ELECTRONIC COMMUNICATIONS.—The term  
 16 “electronic communications” includes communica-  
 17 tions via telephone, mobile phone, computer, e-mail,  
 18 video recorder, fax machine, telex, or pager.

19 (8) EMPLOY; STATE.—The terms “employ” and  
 20 “State” have the meanings given the terms in sec-  
 21 tion 3 of the Fair Labor Standards Act of 1938 (29  
 22 U.S.C. 203).

23 (9) EMPLOYEE.—

24 (A) IN GENERAL.—The term “employee”  
 25 means any person employed by an employer. In

1 the case of an individual employed by a public  
2 agency, such term means an individual em-  
3 ployed as described in section 3(e) of the Fair  
4 Labor Standards Act of 1938 (29 U.S.C.  
5 203(e)).

6 (B) BASIS.—The term includes a person  
7 employed as described in subparagraph (A) on  
8 a full- or part-time basis, for a fixed time pe-  
9 riod, on a temporary basis, pursuant to a detail,  
10 as an independent contractor, or as a partici-  
11 pant in a work assignment as a condition of re-  
12 ceipt of Federal or State income-based public  
13 assistance.

14 (10) EMPLOYER.—The term “employer”—

15 (A) means any person engaged in com-  
16 merce or in any industry or activity affecting  
17 commerce who employs 15 or more individuals;  
18 and

19 (B) includes any person acting directly or  
20 indirectly in the interest of an employer in rela-  
21 tion to an employee, and includes a public agen-  
22 cy, but does not include any labor organization  
23 (other than when acting as an employer) or  
24 anyone acting in the capacity of officer or agent  
25 of such labor organization.

1           (11) EMPLOYMENT BENEFITS.—The term “em-  
2       ployment benefits” means all benefits provided or  
3       made available to employees by an employer, includ-  
4       ing group life insurance, health insurance, disability  
5       insurance, sick leave, annual leave, educational bene-  
6       fits, and pensions, regardless of whether such bene-  
7       fits are provided by a practice or written policy of  
8       an employer or through an “employee benefit plan”,  
9       as defined in section 3(3) of the Employee Retirement  
10      Income Security Act of 1974 (29 U.S.C.  
11      1002(3)).

12          (12) FAMILY OR HOUSEHOLD MEMBER.—The  
13      term “family or household member” means a  
14      spouse, former spouse, parent, son or daughter, or  
15      person residing or formerly residing in the same  
16      dwelling unit.

17          (13) PARENT; SON OR DAUGHTER.—The terms  
18      “parent” and “son or daughter” have the meanings  
19      given the terms in section 101 of the Family and  
20      Medical Leave Act of 1993 (29 U.S.C. 2611).

21          (14) PERSON.—The term “person” has the  
22      meaning given the term in section 3 of the Fair  
23      Labor Standards Act of 1938 (29 U.S.C. 203).

24          (15) PUBLIC AGENCY.—The term “public agen-  
25      cy” has the meaning given the term in section 3 of

1 the Fair Labor Standards Act of 1938 (29 U.S.C.  
2 203).

3 (16) PUBLIC ASSISTANCE.—The term “public  
4 assistance” includes cash, food stamps, medical as-  
5 sistance, housing assistance, and other benefits pro-  
6 vided on the basis of income by a public agency.

7 (17) REDUCED LEAVE SCHEDULE.—The term  
8 “reduced leave schedule” means a leave schedule  
9 that reduces the usual number of hours per work-  
10 week, or hours per workday, of an employee.

11 (18) REPEATEDLY.—The term “repeatedly”  
12 means on 2 or more occasions.

13 (19) SECRETARY.—The term “Secretary”  
14 means the Secretary of Labor.

15 (20) SEXUAL ASSAULT.—The term “sexual as-  
16 sault” has the meaning given the term in section  
17 826 of the Higher Education Amendments of 1998  
18 (20 U.S.C. 1152).

19 (21) SEXUAL ASSAULT COALITION.—The term  
20 “sexual assault coalition” means a nonprofit, non-  
21 governmental membership organization that—

22 (A) consists of the entities carrying out a  
23 majority of the sexual assault programs carried  
24 out within a State;

1 (B) collaborates and coordinates activities  
2 with Federal, State, and local entities to further  
3 the purposes of sexual assault intervention and  
4 prevention; and

5 (C) among other activities, provides train-  
6 ing and technical assistance to entities carrying  
7 out sexual assault programs within a State, ter-  
8 ritory, political subdivision, or area under Fed-  
9 eral authority.

10 (22) STALKING.—The term “stalking” means  
11 engaging in a course of conduct directed at a spe-  
12 cific person that would cause a reasonable person to  
13 suffer substantial emotional distress or to fear bodily  
14 injury, sexual assault, or death to the person, or the  
15 person’s spouse, parent, or son or daughter, or any  
16 other person who regularly resides in the person’s  
17 household, if the conduct causes the specific person  
18 to have such distress or fear.

19 (23) VICTIM OF DOMESTIC OR SEXUAL VIO-  
20 LENCE.—The term “victim of domestic or sexual vi-  
21 olence” includes a person who has been a victim of  
22 domestic or sexual violence and a person whose fam-  
23 ily or household member has been a victim of domes-  
24 tic or sexual violence.



1           (24) VICTIM SERVICES ORGANIZATION.—The  
 2       term “victim services organization” means a non-  
 3       profit, nongovernmental organization that provides  
 4       assistance to victims of domestic or sexual violence  
 5       or to advocates for such victims, including a rape  
 6       crisis center, an organization carrying out a domes-  
 7       tic violence program, an organization operating a  
 8       shelter or providing counseling services, or an orga-  
 9       nization providing assistance through the legal proc-  
 10      ess.

11 **TITLE       I—ENTITLEMENT       TO**  
 12 **EMERGENCY LEAVE FOR AD-**  
 13 **DRESSING DOMESTIC OR SEX-**  
 14 **UAL VIOLENCE**

15 **SEC. 101. PURPOSES.**

16       The purposes of this title are, pursuant to the affirm-  
 17      ative power of Congress to enact legislation under the por-  
 18      tions of section 8 of article I of the Constitution relating  
 19      to providing for the general welfare and to regulation of  
 20      commerce among the several States, and under section 5  
 21      of the 14th amendment to the Constitution—

22           (1) to promote the national interest in reducing  
 23       domestic violence, dating violence, sexual assault,  
 24       and stalking by enabling victims of domestic or sex-  
 25       ual violence to maintain the financial independence

1 necessary to leave abusive situations, achieve safety,  
2 and minimize the physical and emotional injuries  
3 from domestic or sexual violence, and to reduce the  
4 devastating economic consequences of domestic or  
5 sexual violence to employers and employees;

6 (2) to promote the national interest in ensuring  
7 that victims of domestic or sexual violence can re-  
8 cover from and cope with the effects of such vio-  
9 lence, and participate in criminal and civil justice  
10 processes, without fear of adverse economic con-  
11 sequences from their employers;

12 (3) to ensure that victims of domestic or sexual  
13 violence can recover from and cope with the effects  
14 of such violence, and participate in criminal and civil  
15 justice processes, without fear of adverse economic  
16 consequences with respect to public benefits;

17 (4) to promote the purposes of the 14th amend-  
18 ment by preventing sex-based discrimination and  
19 discrimination against victims of domestic and sex-  
20 ual violence in employment leave, addressing the  
21 failure of existing laws to protect the employment  
22 rights of victims of domestic or sexual violence, by  
23 protecting their civil and economic rights, and by  
24 furthering the equal opportunity of women for eco-

1        nomic self-sufficiency and employment free from dis-  
2        crimination;

3            (5) to minimize the negative impact on inter-  
4        state commerce from dislocations of employees and  
5        harmful effects on productivity, employment, health  
6        care costs, and employer costs, caused by domestic  
7        or sexual violence, including intentional efforts to  
8        frustrate women’s ability to participate in employ-  
9        ment and interstate commerce;

10          (6) to further the goals of human rights and  
11        dignity reflected in instruments such as the United  
12        Nations Charter, the Universal Declaration of  
13        Human Rights, and the International Covenant on  
14        Civil and Political Rights; and

15          (7) to accomplish the purposes described in  
16        paragraphs (1) through (6) by—

17            (A) entitling employed victims of domestic  
18            or sexual violence to take leave to seek medical  
19            help, legal assistance, counseling, safety plan-  
20            ning, and other assistance without penalty from  
21            their employers; and

22            (B) prohibiting employers from discrimi-  
23            nating against actual or perceived victims of do-  
24            mestic or sexual violence, in a manner that ac-  
25            commodates the legitimate interests of employ-

ers and protects the safety of all persons in the workplace.

**SEC. 102. ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC OR SEXUAL VIOLENCE.**

(a) LEAVE REQUIREMENT.—

(1) BASIS.—An employee who is a victim of domestic or sexual violence may take leave from work to address domestic or sexual violence, by—

(A) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the employee or the employee’s family or household member;

(B) obtaining services from a victim services organization for the employee or the employee’s family or household member;

(C) obtaining psychological or other counseling for the employee or the employee’s family or household member;

(D) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee’s family or household member from future domestic or sexual violence or ensure economic security; or

1           (E) seeking legal assistance or remedies to  
2           ensure the health and safety of the employee or  
3           the employee's family or household member, in-  
4           cluding preparing for or participating in any  
5           civil or criminal legal proceeding related to or  
6           derived from domestic or sexual violence.

7           (2) PERIOD.—An employee may take not more  
8           than 30 days of leave, as described in paragraph (1),  
9           in any 12-month period.

10          (3) SCHEDULE.—Leave described in paragraph  
11          (1) may be taken intermittently or on a reduced  
12          leave schedule.

13          (b) NOTICE.—The employee shall provide the em-  
14          ployer with reasonable notice of the employee's intention  
15          to take the leave, unless providing such notice is not prac-  
16          ticable.

17          (c) CERTIFICATION.—

18                (1) IN GENERAL.—The employer may require  
19                the employee to provide certification to the employer  
20                that—

21                    (A) the employee or the employee's family  
22                    or household member is a victim of domestic or  
23                    sexual violence; and

24                    (B) the leave is for 1 of the purposes enu-  
25                    merated in subsection (a)(1).

1       The employee shall provide a copy of such certifi-  
2       cation to the employer within a reasonable period  
3       after the employer requests certification.

4               (2) CONTENTS.—An employee may satisfy the  
5       certification requirement of paragraph (1) by pro-  
6       viding to the employer—

7                       (A) a sworn statement of the employee;

8                       (B) documentation from an employee,  
9       agent, or volunteer of a victim services organi-  
10      zation, an attorney, a member of the clergy, or  
11      a medical or other professional, from whom the  
12      employee or the employee's family or household  
13      member has sought assistance in addressing do-  
14      mestic or sexual violence and the effects of the  
15      violence;

16                      (C) a police or court record; or

17                      (D) other corroborating evidence.

18       (d) CONFIDENTIALITY.—All information provided to  
19      the employer pursuant to subsection (b) or (c), including  
20      a statement of the employee or any other documentation,  
21      record, or corroborating evidence, and the fact that the  
22      employee has requested or obtained leave pursuant to this  
23      section, shall be retained in the strictest confidence by the  
24      employer, except to the extent that disclosure is—

1           (1) requested or consented to by the employee  
2       in writing; or

3           (2) otherwise required by applicable Federal or  
4       State law.

5       (e) EMPLOYMENT AND BENEFITS.—

6           (1) RESTORATION TO POSITION.—

7                (A) IN GENERAL.—Except as provided in  
8       paragraph (2), any employee who takes leave  
9       under this section for the intended purpose of  
10      the leave shall be entitled, on return from such  
11      leave—

12                   (i) to be restored by the employer to  
13      the position of employment held by the em-  
14      ployee when the leave commenced; or

15                   (ii) to be restored to an equivalent po-  
16      sition with equivalent employment benefits,  
17      pay, and other terms and conditions of em-  
18      ployment.

19           (B) LOSS OF BENEFITS.—The taking of  
20      leave under this section shall not result in the  
21      loss of any employment benefit accrued prior to  
22      the date on which the leave commenced.

23           (C) LIMITATIONS.—Nothing in this sub-  
24      section shall be construed to entitle any re-  
25      stored employee to—

1 (i) the accrual of any seniority or em-  
 2 ployment benefits during any period of  
 3 leave; or

4 (ii) any right, benefit, or position of  
 5 employment other than any right, benefit,  
 6 or position to which the employee would  
 7 have been entitled had the employee not  
 8 taken the leave.

9 (D) CONSTRUCTION.—Nothing in this  
 10 paragraph shall be construed to prohibit an em-  
 11 ployer from requiring an employee on leave  
 12 under this section to report periodically to the  
 13 employer on the status and intention of the em-  
 14 ployee to return to work.

15 (2) EXEMPTION CONCERNING CERTAIN HIGHLY  
 16 COMPENSATED EMPLOYEES.—

17 (A) DENIAL OF RESTORATION.—An em-  
 18 ployer may deny restoration under paragraph  
 19 (1) to any employee described in subparagraph  
 20 (B) if—

21 (i) such denial is necessary to prevent  
 22 substantial and grievous economic injury to  
 23 the operations of the employer;

24 (ii) the employer notifies the employee  
 25 of the intent of the employer to deny res-



1           toration on such basis at the time the em-  
2           ployer determines that such injury would  
3           occur; and

4           (iii) in any case in which the leave has  
5           commenced, the employee elects not to re-  
6           turn to employment after receiving such  
7           notice.

8           (B) AFFECTED EMPLOYEES.—An employee  
9           referred to in subparagraph (A) is a salaried  
10          employee who is among the highest paid 10 per-  
11          cent of the employees employed by the employer  
12          within 75 miles of the facility at which the em-  
13          ployee is employed.

14       (3) MAINTENANCE OF HEALTH BENEFITS.—

15           (A) COVERAGE.—Except as provided in  
16          subparagraph (B), during any period that an  
17          employee takes leave under this section, the em-  
18          ployer shall maintain coverage under any group  
19          health plan (as defined in section 5000(b)(1) of  
20          the Internal Revenue Code of 1986) for the du-  
21          ration of such leave at the level and under the  
22          conditions coverage would have been provided if  
23          the employee had continued in employment con-  
24          tinuously for the duration of such leave.

1 (B) FAILURE TO RETURN FROM LEAVE.—

2 The employer may recover the premium that  
3 the employer paid for maintaining coverage for  
4 the employee under such group health plan dur-  
5 ing any period of leave under this section if—

6 (i) the employee fails to return from  
7 leave under this section after the period of  
8 leave to which the employee is entitled has  
9 expired; and

10 (ii) the employee fails to return to  
11 work for a reason other than—

12 (I) the continuation, recurrence,  
13 or onset of domestic or sexual vio-  
14 lence, that entitles the employee to  
15 leave pursuant to this section; or

16 (II) other circumstances beyond  
17 the control of the employee.

18 (C) CERTIFICATION.—

19 (i) ISSUANCE.—An employer may re-  
20 quire an employee who claims that the em-  
21 ployee is unable to return to work because  
22 of a reason described in subclause (I) or  
23 (II) of subparagraph (B)(ii) to provide,  
24 within a reasonable period after making  
25 the claim, certification to the employer

1           that the employee is unable to return to  
2           work because of that reason.

3           (ii) CONTENTS.—An employee may  
4           satisfy the certification requirement of  
5           clause (i) by providing to the employer—

6                   (I) a sworn statement of the em-  
7                   ployee;

8                   (II) documentation from an em-  
9                   ployee, agent, or volunteer of a victim  
10                  services organization, an attorney, a  
11                  member of the clergy, or a medical or  
12                  other professional, from whom the  
13                  employee has sought assistance in ad-  
14                  dressing domestic or sexual violence  
15                  and the effects of that violence;

16                  (III) a police or court record; or

17                  (IV) other corroborating evi-  
18                  dence.

19           (D) CONFIDENTIALITY.—All information  
20           provided to the employer pursuant to subpara-  
21           graph (C), including a statement of the em-  
22           ployee or any other documentation, record, or  
23           corroborating evidence, and the fact that the  
24           employee is not returning to work because of a  
25           reason described in subclause (I) or (II) of sub-

paragraph (B)(ii) shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(i) requested or consented to by the employee; or

(ii) otherwise required by applicable Federal or State law.

(f) PROHIBITED ACTS.—

(1) INTERFERENCE WITH RIGHTS.—

(A) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(B) EMPLOYER DISCRIMINATION.—It shall be unlawful for any employer to discharge or harass any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner) because the individual—

(i) exercised any right provided under this section; or

(ii) opposed any practice made unlawful by this section.

1 (C) PUBLIC AGENCY SANCTIONS.—It shall  
 2 be unlawful for any public agency to deny, re-  
 3 duce, or terminate the benefits of, otherwise  
 4 sanction, or harass any individual, or otherwise  
 5 discriminate against any individual with respect  
 6 to the amount, terms, or conditions of public  
 7 assistance of the individual (including retalia-  
 8 tion in any form or manner) because the indi-  
 9 vidual—

10 (i) exercised any right provided under  
 11 this section; or

12 (ii) opposed any practice made unlaw-  
 13 ful by this section.

14 (2) INTERFERENCE WITH PROCEEDINGS OR IN-  
 15 QUIRIES.—It shall be unlawful for any person to dis-  
 16 charge or in any other manner discriminate (as de-  
 17 scribed in subparagraph (B) or (C) of paragraph  
 18 (1)) against any individual because such indi-  
 19 vidual—

20 (A) has filed any charge, or has instituted  
 21 or caused to be instituted any proceeding,  
 22 under or related to this section;

23 (B) has given, or is about to give, any in-  
 24 formation in connection with any inquiry or

proceeding relating to any right provided under  
this section; or

(C) has testified, or is about to testify, in  
any inquiry or proceeding relating to any right  
provided under this section.

(g) ENFORCEMENT.—

(1) CIVIL ACTION BY AFFECTED INDIVIDUALS.—

(A) LIABILITY.—Any employer or public  
agency that violates subsection (f) shall be liable to any individual affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, employment benefits, public assistance, or other compensation denied or lost to such individual by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, public assistance, or other compensation has not been denied or lost to the individual, any actual monetary losses sustained

1 by the individual as a direct re-  
2 sult of the violation;

3 (II) the interest on the amount  
4 described in subclause (I) calculated  
5 at the prevailing rate; and

6 (III) an additional amount as liq-  
7 uidated damages equal to the sum of  
8 the amount described in subclause (I)  
9 and the interest described in sub-  
10 clause (II), except that if an employer  
11 or public agency that has violated  
12 subsection (f) proves to the satisfac-  
13 tion of the court that the act or omis-  
14 sion that violated subsection (f) was  
15 in good faith and that the employer or  
16 public agency had reasonable grounds  
17 for believing that the act or omission  
18 was not a violation of subsection (f),  
19 such court may, in the discretion of  
20 the court, reduce the amount of the li-  
21 ability to the amount and interest de-  
22 termined under subclauses (I) and  
23 (II), respectively; and

1 (ii) for such equitable relief as may be  
2 appropriate, including employment, rein-  
3 statement, and promotion.

4 (B) RIGHT OF ACTION.—An action to re-  
5 cover the damages or equitable relief prescribed  
6 in subparagraph (A) may be maintained against  
7 any employer or public agency in any Federal  
8 or State court of competent jurisdiction by any  
9 1 or more affected individuals for and on behalf  
10 of—

11 (i) the individuals; or

12 (ii) the individuals and other individ-  
13 uals similarly situated.

14 (C) FEES AND COSTS.—The court in such  
15 an action shall, in addition to any judgment  
16 awarded to the plaintiff, allow a reasonable at-  
17 torney's fee, reasonable expert witness fees, and  
18 other costs of the action to be paid by the de-  
19 fendant.

20 (D) LIMITATIONS.—The right provided by  
21 subparagraph (B) to bring an action by or on  
22 behalf of any affected individual shall termi-  
23 nate—

24 (i) on the filing of a complaint by the  
25 Secretary in an action under paragraph (4)



1 in which restraint is sought of any further  
 2 delay in the payment of the amount de-  
 3 scribed in subparagraph (A)(i) to such in-  
 4 dividual by an employer or public agency  
 5 responsible under subparagraph (A) for  
 6 the payment; or

7 (ii) on the filing of a complaint by the  
 8 Secretary in an action under paragraph (2)  
 9 in which a recovery is sought of the dam-  
 10 ages described in subparagraph (A)(i)  
 11 owing to an affected individual by an em-  
 12 ployer or public agency liable under sub-  
 13 paragraph (A),

14 unless the action described in clause (i) or (ii)  
 15 is dismissed without prejudice on motion of the  
 16 Secretary.

17 (2) ACTION BY THE SECRETARY.—

18 (A) ADMINISTRATIVE ACTION.—The Sec-  
 19 retary shall receive, investigate, and attempt to  
 20 resolve complaints of violations of subsection (f)  
 21 in the same manner as the Secretary receives,  
 22 investigates, and attempts to resolve complaints  
 23 of violations of sections 6 and 7 of the Fair  
 24 Labor Standards Act of 1938 (29 U.S.C. 206  
 25 and 207).

1 (B) CIVIL ACTION.—The Secretary may  
2 bring an action in any court of competent juris-  
3 diction to recover the damages described in  
4 paragraph (1)(A)(i).

5 (C) SUMS RECOVERED.—Any sums recov-  
6 ered by the Secretary pursuant to subparagraph  
7 (B) shall be held in a special deposit account  
8 and shall be paid, on order of the Secretary, di-  
9 rectly to each individual affected. Any such  
10 sums not paid to such an individual because of  
11 inability to do so within a period of 3 years  
12 shall be deposited into the Treasury of the  
13 United States as miscellaneous receipts.

14 (3) LIMITATION.—

15 (A) IN GENERAL.—Except as provided in  
16 subparagraph (B), an action may be brought  
17 under this subsection not later than 2 years  
18 after the date of the last event constituting the  
19 alleged violation for which the action is brought.

20 (B) WILLFUL VIOLATION.—In the case of  
21 such action brought for a willful violation of  
22 subsection (f), such action may be brought  
23 within 3 years after the date of the last event  
24 constituting the alleged violation for which such  
25 action is brought.

1 (C) COMMENCEMENT.—In determining  
2 when an action is commenced by the Secretary  
3 under this subsection for the purposes of this  
4 paragraph, it shall be considered to be com-  
5 menced on the date when the complaint is filed.

6 (4) ACTION FOR INJUNCTION BY SECRETARY.—  
7 The district courts of the United States shall have  
8 jurisdiction, for cause shown, in an action brought  
9 by the Secretary—

10 (A) to restrain violations of subsection (f),  
11 including the restraint of any withholding of  
12 payment of wages, salary, employment benefits,  
13 public assistance, or other compensation, plus  
14 interest, found by the court to be due to af-  
15 fected individuals; or

16 (B) to award such other equitable relief as  
17 may be appropriate, including employment, re-  
18 instatement, and promotion.

19 (5) SOLICITOR OF LABOR.—The Solicitor of  
20 Labor may appear for and represent the Secretary  
21 on any litigation brought under this subsection.

22 (6) EMPLOYER LIABILITY UNDER OTHER  
23 LAWS.—Nothing in this section shall be construed to  
24 limit the liability of an employer or public agency to  
25 an individual, for harm suffered relating to the indi-

vidual's experience of domestic or sexual violence,  
pursuant to any other Federal or State law, includ-  
ing a law providing for a legal remedy.

**SEC. 103. EXISTING LEAVE USABLE FOR ADDRESSING DO-  
MESTIC OR SEXUAL VIOLENCE.**

An employee who is entitled to take paid or unpaid  
leave (including family, medical, sick, annual, personal, or  
similar leave) from employment, pursuant to State or local  
law, a collective bargaining agreement, or an employment  
benefits program or plan, may elect to substitute any pe-  
riod of such leave for an equivalent period of leave pro-  
vided under section 102.

**SEC. 104. EMERGENCY BENEFITS.**

(a) IN GENERAL.—A State may use funds provided  
to the State under part A of title IV of the Social Security  
Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-  
term emergency benefits to an individual for any period  
of leave the individual takes pursuant to section 102.

(b) ELIGIBILITY.—In calculating the eligibility of an  
individual for such emergency benefits, the State shall  
count only the cash available or accessible to the indi-  
vidual.

(c) TIMING.—

9 (d) CONFORMING AMENDMENT.—Section 404 of the  
10 Social Security Act (42 U.S.C. 604) is amended by adding  
11 at the end the following:

20 SEC. 105. EFFECT ON OTHER LAWS AND EMPLOYMENT BEN-  
21 EFITS.

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1 or local law, collective bargaining agreement, or employ-  
 2 ment benefits program or plan that provides—

3 (1) greater leave benefits for victims of domes-  
 4 tic or sexual violence than the rights established  
 5 under this title; or

6 (2) leave benefits for a larger population of vic-  
 7 tims of domestic or sexual violence (as defined in  
 8 such law, agreement, program, or plan) than the vic-  
 9 tims of domestic or sexual violence covered under  
 10 this title.

11 (b) LESS PROTECTIVE LAWS, AGREEMENTS, PRO-  
 12 GRAMS, AND PLANS.—The rights established for victims  
 13 of domestic or sexual violence under this title shall not  
 14 be diminished by any State or local law, collective bar-  
 15 gaining agreement, or employment benefits program or  
 16 plan.

17 **SEC. 106. CONFORMING AMENDMENT.**

18 Section 1003(a)(1) of the Rehabilitation Act Amend-  
 19 ments of 1986 (42 U.S.C. 2000d–7(a)(1)) is amended by  
 20 inserting “title I or III of the Security and Financial Em-  
 21 powerment Act,” before “or the provisions”.

22 **SEC. 107. EFFECTIVE DATE.**

23 This title and the amendment made by this title take  
 24 effect 180 days after the date of enactment of this Act.

1 **TITLE II—ENTITLEMENT TO UN-**  
2 **EMPLOYMENT COMPENSA-**  
3 **TION FOR VICTIMS OF DO-**  
4 **MESTIC VIOLENCE, DATING**  
5 **VIOLENCE, SEXUAL ASSAULT,**  
6 **OR STALKING**

7 **SEC. 201. PURPOSES.**

8       The purposes of this title are, pursuant to the affirm-  
9     ative power of Congress to enact legislation under the por-  
10    tions of section 8 of article I of the Constitution relating  
11    to laying and collecting taxes, providing for the general  
12    welfare, and regulation of commerce among the several  
13    States, and under section 5 of the 14th amendment to  
14    the Constitution—

15           (1) to promote the national interest in reducing  
16       domestic violence, dating violence, sexual assault,  
17       and stalking by enabling victims of domestic or sex-  
18       ual violence to maintain the financial independence  
19       necessary to leave abusive situations, achieve safety,  
20       and minimize the physical and emotional injuries  
21       from domestic or sexual violence, and to reduce the  
22       devastating economic consequences of domestic or  
23       sexual violence to employers and employees;

24           (2) to promote the national interest in ensuring  
25       that victims of domestic or sexual violence can re-

1 cover from and cope with the effects of such victim-  
2 ization and participate in the criminal and civil jus-  
3 tice processes without fear of adverse economic con-  
4 sequences;

5 (3) to minimize the negative impact on inter-  
6 state commerce from dislocations of employees and  
7 harmful effects on productivity, loss of employment,  
8 health care costs, and employer costs, caused by do-  
9 mestic or sexual violence including intentional efforts  
10 to frustrate the ability of women to participate in  
11 employment and interstate commerce;

12 (4) to promote the purposes of the 14th amend-  
13 ment to the Constitution by preventing sex-based  
14 discrimination and discrimination against victims of  
15 domestic and sexual violence in unemployment insur-  
16 ance, by addressing the failure of existing laws to  
17 protect the employment rights of victims of domestic  
18 or sexual violence, by protecting their civil and eco-  
19 nomic rights, and by furthering the equal oppor-  
20 tunity of women for economic self-sufficiency and  
21 employment free from discrimination; and

22 (5) to accomplish the purposes described in  
23 paragraphs (1) through (4) by providing unemploy-  
24 ment insurance to those who are separated from  
25 their employment as a result of domestic or sexual



1 violence, in a manner that accommodates the legiti-  
 2 mate interests of employers and protects the safety  
 3 of all persons in the workplace.

4 **SEC. 202. UNEMPLOYMENT COMPENSATION AND TRAINING**  
 5 **PROVISIONS.**

6 (a) UNEMPLOYMENT COMPENSATION.—Section 3304  
 7 of the Internal Revenue Code of 1986 (relating to approval  
 8 of State unemployment compensation laws) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (18), by striking “and”  
 11 at the end;

12 (B) by redesignating paragraph (19) as  
 13 paragraph (20); and

14 (C) by inserting after paragraph (18) the  
 15 following new paragraph:

16 “(19) compensation shall not be denied where  
 17 an individual is separated from employment due to  
 18 circumstances resulting from the individual’s experi-  
 19 ence of domestic or sexual violence; and”; and

20 (2) by adding at the end the following new sub-  
 21 section:

22 “(g) CONSTRUCTION.—

23 “(1) IN GENERAL.—For purposes of subsection  
 24 (a)(19), an individual’s separation from employment  
 25 shall be treated as due to circumstances resulting

1 from the individual's experience of domestic or sex-  
2 ual violence if the separation resulted from—

3 “(A) the individual's reasonable fear of fu-  
4 ture domestic or sexual violence at or en route  
5 to or from the individual's place of employment;

6 “(B) the individual's wish to relocate in  
7 order to avoid future domestic or sexual vio-  
8 lence against the individual or the individual's  
9 family or household member (as such term is  
10 defined in section 3 of the Security and Finan-  
11 cial Empowerment Act);

12 “(C) the individual's need to obtain treat-  
13 ment to address the physical, psychological, or  
14 legal effects of domestic or sexual violence on  
15 the individual or the individual's family or  
16 household member (as such term is defined in  
17 section 3 of the Security and Financial Em-  
18 powerment Act);

19 “(D) the employer's denial of the individ-  
20 ual's request for leave from employment to ad-  
21 dress domestic or sexual violence and its effects  
22 on the individual or the individual's family or  
23 household member (as such term is defined in  
24 section 3 of the Security and Financial Em-  
25 powerment Act), including leave authorized by

1 section 102 of the Family and Medical Leave  
2 Act of 1993 or by title I of the Security and Fi-  
3 nancial Empowerment Act;

4 “(E) the employer’s termination of the in-  
5 dividual’s employment due to actions, including  
6 absences, taken by the individual that were nec-  
7 essary to protect the individual or the individ-  
8 ual’s family or household member (as such term  
9 is defined in section 3 of the Security and Fi-  
10 nancial Empowerment Act) from domestic or  
11 sexual violence;

12 “(F) the employer’s termination of the in-  
13 dividual due to circumstances resulting from  
14 the individual’s being, or being perceived to be,  
15 a victim of domestic or sexual violence; or

16 “(G) any other circumstance in which do-  
17 mestic or sexual violence causes the individual  
18 to reasonably believe that separation from em-  
19 ployment is necessary for the future safety of  
20 the individual or the individual’s family or  
21 household member (as such term is defined in  
22 section 3 of the Security and Financial Em-  
23 powerment Act).

24 “(2) REASONABLE EFFORTS TO RETAIN EM-  
25 PLOYMENT.—For purposes of subsection (a)(19), if

1 State law requires the individual to have made rea-  
 2 sonable efforts to retain employment as a condition  
 3 for receiving unemployment compensation, such re-  
 4 quirement shall be met if the individual—

5 “(A) sought protection from, or assistance  
 6 in responding to, domestic or sexual violence,  
 7 including calling the police, obtaining services  
 8 from a victim services organization (as defined  
 9 in section 3 of the Security and Financial Em-  
 10 powerment Act), or seeking legal, social work,  
 11 medical, clerical, or other assistance;

12 “(B) sought safety, including refuge in a  
 13 shelter or temporary or permanent relocation,  
 14 whether or not the individual actually obtained  
 15 such refuge or accomplished such relocation; or

16 “(C) reasonably believed that options such  
 17 as taking a leave of absence, transferring jobs,  
 18 or receiving an alternative work schedule would  
 19 not be sufficient to guarantee the safety of the  
 20 individual or the individual’s family or house-  
 21 hold member (as such term is defined in section  
 22 3 of the Security and Financial Empowerment  
 23 Act).

24 “(3) ACTIVE SEARCH FOR EMPLOYMENT.—For  
 25 purposes of subsection (a)(19), if State law requires

1 the individual to actively search for employment  
2 after separation from employment as a condition for  
3 receiving unemployment compensation—

4 “(A) such requirement shall be treated as  
5 met where the individual registers for work (the  
6 individual is not otherwise required to seek em-  
7 ployment on a weekly basis); and

8 “(B) such law may not categorize an em-  
9 ployment opportunity as suitable work for the  
10 individual unless such employment opportunity  
11 reasonably accommodates the individual’s need  
12 to address the physical, psychological, legal, and  
13 other effects of domestic or sexual violence.

14 “(4) PROVISION OF INFORMATION TO MEET  
15 CERTAIN REQUIREMENTS.—

16 “(A) IN GENERAL.—In determining if an  
17 individual meets the requirements of para-  
18 graphs (1), (2), and (3), the unemployment  
19 agency of the State in which an individual is re-  
20 questing unemployment compensation by reason  
21 of subsection (a)(19) may require the individual  
22 to provide certification that the separation from  
23 employment was due to circumstances resulting  
24 from the individual’s, or the individual’s family  
25 or household member’s (as such term is defined

1 in section 3 of the Security and Financial Em-  
2 powerment Act), experience of domestic or sex-  
3 ual violence.

4 “(B) SATISFACTION OF CERTIFICATION  
5 REQUIREMENT.—An individual may satisfy the  
6 certification requirement of subparagraph (A)  
7 by providing to the unemployment agency—

8 “(i) a sworn statement of the indi-  
9 vidual;

10 “(ii) documentation from an em-  
11 ployee, agent, or volunteer of a victim serv-  
12 ices organization (as defined in section 3 of  
13 the Security and Financial Empowerment  
14 Act), an attorney, a member of the clergy,  
15 or a medical or other professional, from  
16 whom the individual or the individual’s  
17 family or household member (as such term  
18 is defined in section 3 of the Security and  
19 Financial Empowerment Act) has sought  
20 assistance in addressing domestic or sexual  
21 violence and the effects of that violence;

22 “(iii) a police or court record; or

23 “(iv) other corroborating evidence.

24 “(C) CONFIDENTIALITY.—All information  
25 provided to the unemployment agency pursuant

to this paragraph, including a statement of an individual or any other documentation, record, or corroborating evidence, and the fact that an individual has applied for, inquired about, or obtained unemployment compensation available by reason of subsection (a)(19) shall be retained in the strictest confidence by the individual's former or current employer and the unemployment agency, except to the extent that disclosure is—

“(i) requested or consented to by the individual in writing; or

“(ii) otherwise required by applicable Federal or State law.”.

(b) UNEMPLOYMENT COMPENSATION PERSONNEL TRAINING.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended—

(1) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) Such methods of administration as will ensure that—

1           “(A) applicants for unemployment com-  
2           pensation and individuals inquiring about such  
3           compensation are adequately notified of the  
4           provisions of subsections (a)(19) and (g) of sec-  
5           tion 3304 of the Internal Revenue Code of 1986  
6           (relating to the availability of unemployment  
7           compensation for victims of domestic or sexual  
8           violence); and

9           “(B) claims reviewers and hearing per-  
10          sonnel are adequately trained in—

11           “(i) the nature and dynamics of do-  
12          mestic or sexual violence (as defined in  
13          section 3306(u) of the Internal Revenue  
14          Code of 1986); and

15           “(ii) methods of ascertaining and  
16          keeping confidential information about pos-  
17          sible experiences of domestic or sexual vio-  
18          lence (as so defined) to ensure that—

19           “(I) requests for unemployment  
20          compensation based on separations  
21          stemming from such violence are reli-  
22          ably screened, identified, and adju-  
23          dicated; and



1                   “(II) full confidentiality is pro-  
 2                   vided for the individual’s claim and  
 3                   submitted evidence; and”.

4           (c) TANF PERSONNEL TRAINING.—Section 402(a)  
 5 of the Social Security Act (42 U.S.C. 602(a)) is amended  
 6 by adding at the end the following new paragraph:

7                   “(8) CERTIFICATION THAT THE STATE WILL  
 8           PROVIDE INFORMATION TO VICTIMS OF DOMESTIC  
 9           AND SEXUAL VIOLENCE.—A certification by the  
 10          chief officer of the State that the State has estab-  
 11          lished and is enforcing standards and procedures  
 12          to—

13                   “(A) ensure that applicants for assistance  
 14          under the program and individuals inquiring  
 15          about such assistance are adequately notified  
 16          of—

17                   “(i) the provisions of subsections  
 18          (a)(19) and (g) of section 3304 of the In-  
 19          ternal Revenue Code of 1986 (relating to  
 20          the availability of unemployment com-  
 21          pensation for victims of domestic or sexual  
 22          violence); and

23                   “(ii) assistance made available by the  
 24          State to victims of domestic or sexual vio-  
 25          lence;

1           “(B) ensure that case workers and other  
2           agency personnel responsible for administering  
3           the State program funded under this part are  
4           adequately trained in—

5                   “(i) the nature and dynamics of do-  
6                   mestic or sexual violence (as defined in  
7                   section 3306(u) of the Internal Revenue  
8                   Code of 1986);

9                   “(ii) State standards and procedures  
10                  relating to the prevention of, and assist-  
11                  ance for individuals who experience, do-  
12                  mestic or sexual violence (as so defined);  
13                  and

14                  “(iii) methods of ascertaining and  
15                  keeping confidential information about pos-  
16                  sible experiences of domestic or sexual vio-  
17                  lence (as so defined);

18           “(C) if a State has elected to establish and  
19           enforce standards and procedures regarding the  
20           screening for and identification of domestic vio-  
21           lence pursuant to paragraph (7), ensure that—

22                   “(i) applicants for assistance under  
23                   the program and individuals inquiring  
24                   about such assistance are adequately noti-

1           fied of options available under such stand-  
 2           ards and procedures; and

3           “(ii) case workers and other agency  
 4           personnel responsible for administering the  
 5           State program funded under this part are  
 6           provided with adequate training regarding  
 7           such standards and procedures and options  
 8           available under such standards and proce-  
 9           dures; and

10          “(D) ensure that the training required  
 11          under subparagraphs (B) and, if applicable,  
 12          (C)(ii) is provided through a training program  
 13          operated by an eligible entity (as defined in sec-  
 14          tion 202(d)(2) of the Security and Financial  
 15          Empowerment Act).”.

16          (d) DOMESTIC AND SEXUAL VIOLENCE TRAINING  
 17          GRANT PROGRAM.—

18               (1) GRANTS AUTHORIZED.—The Secretary of  
 19          Health and Human Services (in this subsection re-  
 20          ferred to as the “Secretary”) is authorized to  
 21          award—

22               (A) a grant to a national victim services  
 23          organization in order for such organization to—

24                       (i) develop and disseminate a model  
 25          training program (and related materials)

1           for the training required under section  
 2           303(a)(4)(B) of the Social Security Act  
 3           (42 U.S.C. 503(a)(4)(B)), as added by  
 4           subsection (b), and under subparagraphs  
 5           (B) and, if applicable, (C)(ii) of section  
 6           402(a)(8) of the such Act (42 U.S.C.  
 7           602(a)(8)), as added by subsection (c); and  
 8           (ii) provide technical assistance with  
 9           respect to such model training program;  
 10          and

11          (B) grants to State, tribal, or local agen-  
 12          cies in order for such agencies to contract with  
 13          eligible entities to provide State, tribal, or local  
 14          case workers and other State, tribal, or local  
 15          agency personnel responsible for administering  
 16          the temporary assistance to needy families pro-  
 17          gram established under part A of title IV of the  
 18          Social Security Act in a State or Indian res-  
 19          ervation with the training required under sub-  
 20          paragraphs (B) and, if applicable, (C)(ii) of  
 21          such section 402(a)(8).

22          (2) ELIGIBLE ENTITY DEFINED.—For purposes  
 23          of paragraph (1)(B), the term “eligible entity”  
 24          means an entity—

25                (A) that is—

1 (i) a State or tribal domestic violence  
2 coalition or sexual assault coalition;

3 (ii) a State or local victim services or-  
4 ganization with recognized expertise in the  
5 dynamics of domestic or sexual violence  
6 whose primary mission is to provide serv-  
7 ices to victims of domestic or sexual vio-  
8 lence, such as a rape crisis center or do-  
9 mestic violence program; or

10 (iii) an organization with dem-  
11 onstrated expertise in State or county wel-  
12 fare laws and implementation of such laws  
13 and experience with disseminating informa-  
14 tion on such laws and implementation, but  
15 only if such organization will provide the  
16 required training in partnership with an  
17 entity described in clause (i) or (ii); and

18 (B) that—

19 (i) has demonstrated expertise in both  
20 domestic and sexual assault, such as a  
21 joint domestic violence and sexual assault  
22 coalition; or

23 (ii) will provide the required training  
24 in partnership with an entity described in  
25 clause (i) or (ii) of subparagraph (A) in

1           order to comply with the dual domestic vio-  
2           lence and sexual assault expertise require-  
3           ment under clause (i).

4           (3) APPLICATION.—An entity seeking a grant  
5           under this subsection shall submit an application to  
6           the Secretary at such time, in such form and man-  
7           ner, and containing such information as the Sec-  
8           retary specifies.

9           (4) REPORTS.—

10           (A) REPORTS TO CONGRESS.—The Sec-  
11           retary shall annually submit a report to Con-  
12           gress on the grant program established under  
13           this subsection.

14           (B) REPORTS AVAILABLE TO PUBLIC.—  
15           The Secretary shall establish procedures for the  
16           dissemination to the public of each report sub-  
17           mitted under subparagraph (A). Such proce-  
18           dures shall include the use of the Internet to  
19           disseminate such reports.

20           (5) AUTHORIZATION OF APPROPRIATIONS.—

21           (A) AUTHORIZATION.—There are author-  
22           ized to be appropriated—

23                   (i) \$1,000,000 for fiscal year 2004 to  
24                   carry out the provisions of paragraph  
25                   (1)(A); and

1                   (ii) \$12,000,000 for each of fiscal  
2                   years 2005 through 2007 to carry out the  
3                   provisions of paragraph (1)(B).

4                   (B) THREE-YEAR AVAILABILITY OF GRANT  
5                   FUNDS.—Each recipient of a grant under this  
6                   subsection shall return to the Secretary of  
7                   Health and Human Services any unused por-  
8                   tion of such grant not later than 3 years after  
9                   the date the grant was awarded, together with  
10                  any earnings on such unused portion.

11                  (C) AMOUNTS RETURNED.—Any amounts  
12                  returned pursuant to subparagraph (B) shall be  
13                  available without further appropriation to the  
14                  Secretary of Health and Human Services for  
15                  the purpose of carrying out the provisions of  
16                  paragraph (1)(B).

17                  (e) DEFINITION OF DOMESTIC OR SEXUAL VIO-  
18                  LENCE.—Section 3306 of the Internal Revenue Code of  
19                  1986 (relating to definitions) is amended by adding at the  
20                  end the following:

21                  “(u) DOMESTIC OR SEXUAL VIOLENCE.—For pur-  
22                  poses of this chapter, the term ‘domestic or sexual vio-  
23                  lence’ means domestic violence, dating violence, sexual as-  
24                  sault, or stalking, as those terms are defined in section  
25                  3 of the Security and Financial Empowerment Act.”.

1 (f) EFFECTIVE DATE.—

2 (1) UNEMPLOYMENT AMENDMENTS.—

3 (A) IN GENERAL.—Except as provided in  
4 subparagraph (B) and paragraph (2), the  
5 amendments made by this section shall apply in  
6 the case of compensation paid for weeks begin-  
7 ning on or after the expiration of 180 days  
8 from the date of enactment of this Act.

9 (B) EXTENSION OF EFFECTIVE DATE FOR  
10 STATE LAW AMENDMENT.—

11 (i) IN GENERAL.—If the Secretary of  
12 Labor identifies a State as requiring a  
13 change to its statutes or regulations in  
14 order to comply with the amendments  
15 made by this section (excluding the amend-  
16 ment made by subsection (c)), such  
17 amendments shall apply in the case of  
18 compensation paid for weeks beginning  
19 after the earlier of—

20 (I) the date the State changes its  
21 statutes or regulations in order to  
22 comply with such amendments; or

23 (II) the end of the first session of  
24 the State legislature which begins  
25 after the date of enactment of this



1 Act or which began prior to such date  
 2 and remained in session for at least  
 3 25 calendar days after such date;  
 4 except that in no case shall such amend-  
 5 ments apply before the date that is 180  
 6 days after the date of enactment of this  
 7 Act.

8 (ii) SESSION DEFINED.—In this sub-  
 9 paragraph, the term “session” means a  
 10 regular, special, budget, or other session of  
 11 a State legislature.

12 (2) TANF AMENDMENT.—

13 (A) IN GENERAL.—Except as provided in  
 14 subparagraph (B), the amendment made by  
 15 subsection (c) shall take effect on the date of  
 16 enactment of this Act.

17 (B) EXTENSION OF EFFECTIVE DATE FOR  
 18 STATE LAW AMENDMENT.—In the case of a  
 19 State plan under part A of title IV of the Social  
 20 Security Act which the Secretary of Health and  
 21 Human Services determines requires State leg-  
 22 islation in order for the plan to meet the addi-  
 23 tional requirements imposed by the amendment  
 24 made by subsection (c), the State plan shall not  
 25 be regarded as failing to comply with the re-

1           quirements of such amendment on the basis of  
 2           its failure to meet these additional requirements  
 3           before the first day of the first calendar quarter  
 4           beginning after the close of the first regular  
 5           session of the State legislature that begins after  
 6           the date of enactment of this Act. For purposes  
 7           of the previous sentence, in the case of a State  
 8           that has a 2-year legislative session, each year  
 9           of the session is considered to be a separate  
 10          regular session of the State legislature.

## 11                   **TITLE III—VICTIMS’** 12       **EMPLOYMENT SUSTAINABILITY**

### 13   **SEC. 301. SHORT TITLE.**

14           This title may be cited as the “Victims’ Employment  
 15   Sustainability Act”.

### 16   **SEC. 302. PURPOSES.**

17           The purposes of this title are, pursuant to the affirm-  
 18   ative power of Congress to enact legislation under the por-  
 19   tions of section 8 of article I of the Constitution relating  
 20   to providing for the general welfare and to regulation of  
 21   commerce among the several States, and under section 5  
 22   of the 14th amendment to the Constitution—

23                   (1) to promote the national interest in reducing  
 24           domestic violence, dating violence, sexual assault,  
 25           and stalking by enabling victims of domestic or sex-

1 ual violence to maintain the financial independence  
2 necessary to leave abusive situations, achieve safety,  
3 and minimize the physical and emotional injuries  
4 from domestic or sexual violence, and to reduce the  
5 devastating economic consequences of domestic or  
6 sexual violence to employers and employees;

7 (2) to promote the national interest in ensuring  
8 that victims of domestic or sexual violence can re-  
9 cover from and cope with the effects of such vio-  
10 lence, and participate in criminal and civil justice  
11 processes, without fear of adverse economic con-  
12 sequences from their employers;

13 (3) to ensure that victims of domestic or sexual  
14 violence can recover from and cope with the effects  
15 of such violence, and participate in criminal and civil  
16 justice processes, without fear of adverse economic  
17 consequences with respect to public benefits;

18 (4) to promote the purposes of the 14th amend-  
19 ment to the Constitution by preventing sex-based  
20 discrimination and discrimination against victims of  
21 domestic and sexual violence in employment, by ad-  
22 dressing the failure of existing laws to protect the  
23 employment rights of victims of domestic or sexual  
24 violence, by protecting the civil and economic rights  
25 of victims of domestic or sexual violence, and by fur-

1       thering the equal opportunity of women for economic  
2       self-sufficiency and employment free from discrimi-  
3       nation;

4           (5) to minimize the negative impact on inter-  
5       state commerce from dislocations of employees and  
6       harmful effects on productivity, employment, health  
7       care costs, and employer costs, caused by domestic  
8       or sexual violence, including intentional efforts to  
9       frustrate women's ability to participate in employ-  
10      ment and interstate commerce; and

11          (6) to accomplish the purposes described in  
12      paragraphs (1) through (5) by prohibiting employers  
13      from discriminating against actual or perceived vic-  
14      tims of domestic or sexual violence, in a manner that  
15      accommodates the legitimate interests of employers  
16      and protects the safety of all persons in the work-  
17      place.

18   **SEC. 303. PROHIBITED DISCRIMINATORY ACTS.**

19      (a) IN GENERAL.—An employer shall not fail to hire,  
20      refuse to hire, discharge, or harass any individual, or oth-  
21      erwise discriminate against any individual with respect to  
22      the compensation, terms, conditions, or privileges of em-  
23      ployment of the individual (including retaliation in any  
24      form or manner), and a public agency shall not deny, re-  
25      duce, or terminate the benefits of, otherwise sanction, or

1 harass any individual, or otherwise discriminate against  
2 any individual with respect to the amount, terms, or condi-  
3 tions of public assistance of the individual (including retal-  
4 iation in any form or manner), because—

5 (1) the individual involved—

6 (A) is or is perceived to be a victim of do-  
7 mestic or sexual violence;

8 (B) attended, participated in, prepared for,  
9 or requested leave to attend, participate in, or  
10 prepare for, a criminal or civil court proceeding  
11 relating to an incident of domestic or sexual vi-  
12 olence of which the individual, or the family or  
13 household member of the individual, was a vic-  
14 tim; or

15 (C) requested an adjustment to a job  
16 structure, workplace facility, or work require-  
17 ment, including a transfer, reassignment, or  
18 modified schedule, leave, a changed telephone  
19 number or seating assignment, installation of a  
20 lock, or implementation of a safety procedure,  
21 in response to actual or threatened domestic or  
22 sexual violence, regardless of whether the re-  
23 quest was granted; or

24 (2) the workplace is disrupted or threatened by  
25 the action of a person whom the individual states

1 has committed or threatened to commit domestic or  
2 sexual violence against the individual, or the individ-  
3 ual's family or household member.

4 (b) DEFINITIONS.—In this section:

5 (1) DISCRIMINATE.—The term “discriminate”,  
6 used with respect to the terms, conditions, or privi-  
7 leges of employment or with respect to the terms or  
8 conditions of public assistance, includes not making  
9 a reasonable accommodation to the known limita-  
10 tions of an otherwise qualified individual—

11 (A) who is a victim of domestic or sexual  
12 violence;

13 (B) who is—

14 (i) an applicant or employee of the  
15 employer (including a public agency); or

16 (ii) an applicant for or recipient of  
17 public assistance from the public agency;  
18 and

19 (C) whose limitations resulted from cir-  
20 cumstances relating to being a victim of domes-  
21 tic or sexual violence;

22 unless the employer or public agency can dem-  
23 onstrate that the accommodation would impose an  
24 undue hardship on the operation of the employer or  
25 public agency.

1           (2) QUALIFIED INDIVIDUAL.—The term “quali-  
2       fied individual” means—

3           (A) in the case of an applicant or employee  
4       described in paragraph (1)(B)(i), an individual  
5       who, with or without reasonable accommoda-  
6       tion, can perform the essential functions of the  
7       employment position that such individual holds  
8       or desires; or

9           (B) in the case of an applicant or recipient  
10      described in paragraph (1)(B)(ii), an individual  
11      who, with or without reasonable accommoda-  
12      tion, can satisfy the essential requirements of  
13      the program providing the public assistance  
14      that the individual receives or desires.

15          (3) REASONABLE ACCOMMODATION.—The term  
16      “reasonable accommodation” may include an adjust-  
17      ment to a job structure, workplace facility, or work  
18      requirement, including a transfer, reassignment, or  
19      modified schedule, leave, a changed telephone num-  
20      ber or seating assignment, installation of a lock, or  
21      implementation of a safety procedure, in response to  
22      actual or threatened domestic or sexual violence.

23          (4) UNDUE HARDSHIP.—

24           (A) IN GENERAL.—The term “undue hard-  
25      ship” means an action requiring significant dif-

1           ficuity or expense, when considered in light of  
2           the factors set forth in subparagraph (B).

3           (B) FACTORS TO BE CONSIDERED.—In de-  
4           termining whether a reasonable accommodation  
5           would impose an undue hardship on the oper-  
6           ation of an employer or public agency, factors  
7           to be considered include—

8                   (i) the nature and cost of the reason-  
9                   able accommodation needed under this sec-  
10                  tion;

11                  (ii) the overall financial resources of  
12                  the facility involved in the provision of the  
13                  reasonable accommodation, the number of  
14                  persons employed at such facility, the ef-  
15                  fect on expenses and resources, or the im-  
16                  pact otherwise of such accommodation on  
17                  the operation of the facility;

18                  (iii) the overall financial resources of  
19                  the employer or public agency, the overall  
20                  size of the business of an employer or pub-  
21                  lic agency with respect to the number of  
22                  employees of the employer or public agen-  
23                  cy, and the number, type, and location of  
24                  the facilities of an employer or public agen-  
25                  cy; and



(iv) the type of operation of the employer or public agency, including the composition, structure, and functions of the workforce of the employer or public agency, the geographic separateness of the facility from the employer or public agency, and the administrative or fiscal relationship of the facility to the employer or public agency.

**SEC. 304. ENFORCEMENT.**

(a) CIVIL ACTION BY INDIVIDUALS.—

(1) LIABILITY.—Any employer or public agency that violates section 303 shall be liable to any individual affected for—

(A) damages equal to the amount of wages, salary, employment benefits, public assistance, or other compensation denied or lost to such individual by reason of the violation, and the interest on that amount calculated at the prevailing rate;

(B) compensatory damages, including damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment or life, and other nonpecuniary losses;

1 (C) such punitive damages, up to 3 times  
 2 the amount of actual damages sustained, as the  
 3 court described in paragraph (2) shall deter-  
 4 mine to be appropriate; and

5 (D) such equitable relief as may be appro-  
 6 priate, including employment, reinstatement,  
 7 and promotion.

8 (2) RIGHT OF ACTION.—An action to recover  
 9 the damages or equitable relief prescribed in para-  
 10 graph (1) may be maintained against any employer  
 11 or public agency in any Federal or State court of  
 12 competent jurisdiction by any 1 or more individuals  
 13 described in section 303.

14 (b) ACTION BY DEPARTMENT OF JUSTICE.—The At-  
 15 torney General may bring a civil action in any Federal  
 16 or State court of competent jurisdiction to recover the  
 17 damages or equitable relief described in subsection (a)(1).

18 **SEC. 305. ATTORNEY'S FEES.**

19 Section 722(b) of the Revised Statutes (42 U.S.C.  
 20 1988(b)) is amended by inserting “the Victims’ Employ-  
 21 ment Sustainability Act,” after “title VI of the Civil  
 22 Rights Act of 1964,”.

1     **TITLE IV—VICTIMS OF ABUSE**  
2     **INSURANCE PROTECTION**

3     **SEC. 401. SHORT TITLE.**

4         This title may be cited as the “Victims of Abuse In-  
5     surance Protection Act”.

6     **SEC. 402. DEFINITIONS.**

7         In this title:

8             (1) ABUSE.—The term “abuse” means the oc-  
9         currence of 1 or more of the following acts by a cur-  
10        rent or former household or family member, intimate  
11        partner, or caretaker:

12                 (A) Attempting to cause or causing an-  
13                 other person bodily injury, physical harm, sub-  
14                 stantial emotional distress, psychological trau-  
15                 ma, rape, sexual assault, or involuntary sexual  
16                 intercourse.

17                 (B) Engaging in a course of conduct or re-  
18                 peatedly committing acts toward another per-  
19                 son, including following the person without  
20                 proper authority and under circumstances that  
21                 place the person in reasonable fear of bodily in-  
22                 jury or physical harm.

23                 (C) Subjecting another person to false im-  
24                 prisonment or kidnapping.

1 (D) Attempting to cause or causing dam-  
2 age to property so as to intimidate or attempt  
3 to control the behavior of another person.

4 (2) HEALTH CARRIER.—The term “health car-  
5 rier” means a person that contracts or offers to con-  
6 tract on a risk-assuming basis to provide, deliver, ar-  
7 range for, pay for, or reimburse any of the cost of  
8 health care services, including a sickness and acci-  
9 dent insurance company, a health maintenance orga-  
10 nization, a nonprofit hospital and health service cor-  
11 poration or any other entity providing a plan of  
12 health insurance, health benefits or health services.

13 (3) INSURED.—The term “insured” means a  
14 party named on a policy, certificate, or health ben-  
15 efit plan, including an individual, corporation, part-  
16 nership, association, unincorporated organization, or  
17 any similar entity, as the person with legal rights to  
18 the benefits provided by the policy, certificate, or  
19 health benefit plan. For group insurance, such term  
20 includes a person who is a beneficiary covered by a  
21 group policy, certificate, or health benefit plan. For  
22 life insurance, the term refers to the person whose  
23 life is covered under an insurance policy.

24 (4) INSURER.—The term “insurer” means any  
25 person, reciprocal exchange, inter insurer, Lloyds in-

1 surer, fraternal benefit society, or other legal entity  
2 engaged in the business of insurance, including  
3 agents, brokers, adjusters, and third-party adminis-  
4 trators; and employers who provide or make avail-  
5 able employment benefits through an employee ben-  
6 efit plan, as defined in section 3(3) of the Employee  
7 Retirement Income Security Act of 1974 (29 U.S.C.  
8 102(3)). The term also includes health carriers,  
9 health benefit plans, and life, disability, and prop-  
10 erty and casualty insurers.

11 (5) POLICY.—The term “policy” means a con-  
12 tract of insurance, certificate, indemnity, suretyship,  
13 or annuity issued, proposed for issuance or intended  
14 for issuance by an insurer, including endorsements  
15 or riders to an insurance policy or contract.

16 (6) SUBJECT OF ABUSE.—The term “subject of  
17 abuse” means—

18 (A) a person against whom an act of abuse  
19 has been directed;

20 (B) a person who has prior or current in-  
21 juries, illnesses, or disorders that resulted from  
22 abuse; or

23 (C) a person who seeks, may have sought,  
24 or had reason to seek medical or psychological

1 treatment for abuse, protection, court-ordered  
2 protection, or shelter from abuse.

3 **SEC. 403. DISCRIMINATORY ACTS PROHIBITED.**

4 (a) IN GENERAL.—No insurer may, directly or indi-  
5 rectly, engage in any of the following acts or practices on  
6 the basis that the applicant or insured, or any person em-  
7 ployed by the applicant or insured or with whom the appli-  
8 cant or insured is known to have a relationship or associa-  
9 tion, is, has been, or may be the subject of abuse or has  
10 incurred or may incur abuse-related claims:

11 (1) Denying, refusing to issue, renew or reissue,  
12 or canceling or otherwise terminating an insurance  
13 policy or health benefit plan.

14 (2) Restricting, excluding, or limiting insurance  
15 coverage for losses or denying a claim, except as oth-  
16 erwise permitted or required by State laws relating  
17 to life insurance beneficiaries.

18 (3) Adding a premium differential to any insur-  
19 ance policy or health benefit plan.

20 (b) PROHIBITION ON LIMITATION OF CLAIMS.—No  
21 insurer may, directly or indirectly, deny or limit payment  
22 of a claim incurred by an innocent insured as a result of  
23 abuse.

24 (c) PROHIBITION ON TERMINATION.—

1           (1) IN GENERAL.—No insurer or health carrier  
2           may terminate health coverage for a subject of abuse  
3           because coverage was originally issued in the name  
4           of the abuser and the abuser has divorced, separated  
5           from, or lost custody of the subject of abuse or the  
6           abuser’s coverage has terminated voluntarily or in-  
7           voluntarily and the subject of abuse does not qualify  
8           for an extension of coverage under part 6 of subtitle  
9           B of title I of the Employee Retirement Income Se-  
10          curity Act of 1974 (29 U.S.C. 1161 et seq.) or sec-  
11          tion 4980B of the Internal Revenue Code of 1986.

12          (2) PAYMENT OF PREMIUMS.—Nothing in para-  
13          graph (1) shall be construed to prohibit the insurer  
14          from requiring that the subject of abuse pay the full  
15          premium for the subject’s coverage under the health  
16          plan if the requirements are applied to all insured of  
17          the health carrier.

18          (3) EXCEPTION.—An insurer may terminate  
19          group coverage to which this subsection applies after  
20          the continuation coverage period required by this  
21          subsection has been in force for 18 months if it of-  
22          fers conversion to an equivalent individual plan.

23          (4) CONTINUATION COVERAGE.—The continu-  
24          ation of health coverage required by this subsection  
25          shall be satisfied by any extension of coverage under

1 part 6 of subtitle B of title I of the Employee Re-  
2 tirement Income Security Act of 1974 (29 U.S.C.  
3 1161 et seq.) or section 4980B of the Internal Rev-  
4 enue Code of 1986 provided to a subject of abuse  
5 and is not intended to be in addition to any exten-  
6 sion of coverage otherwise provided for under such  
7 part 6 or section 4980B.

8 (d) USE OF INFORMATION.—

9 (1) LIMITATION.—

10 (A) IN GENERAL.—In order to protect the  
11 safety and privacy of subjects of abuse, no per-  
12 son employed by or contracting with an insurer  
13 or health benefit plan may—

14 (i) use, disclose, or transfer informa-  
15 tion relating to abuse status, acts of abuse,  
16 abuse-related medical conditions or the ap-  
17 plicant's or insured's status as a family  
18 member, employer, associate, or person in  
19 a relationship with a subject of abuse for  
20 any purpose unrelated to the direct provi-  
21 sion of health care services unless such  
22 use, disclosure, or transfer is required by  
23 an order of an entity with authority to reg-  
24 ulate insurance or an order of a court of  
25 competent jurisdiction; or



1 (ii) disclose or transfer information  
 2 relating to an applicant's or insured's mail-  
 3 ing address or telephone number or the  
 4 mailing address and telephone number of a  
 5 shelter for subjects of abuse, unless such  
 6 disclosure or transfer—

7 (I) is required in order to provide  
 8 insurance coverage; and

9 (II) does not have the potential  
 10 to endanger the safety of a subject of  
 11 abuse.

12 (B) RULE OF CONSTRUCTION.—Nothing in  
 13 this paragraph may be construed to limit or  
 14 preclude a subject of abuse from obtaining the  
 15 subject's own insurance records from an in-  
 16 surer.

17 (2) AUTHORITY OF SUBJECT OF ABUSE.—A  
 18 subject of abuse, at the absolute discretion of the  
 19 subject of abuse, may provide evidence of abuse to  
 20 an insurer for the limited purpose of facilitating  
 21 treatment of an abuse-related condition or dem-  
 22 onstrating that a condition is abuse-related. Nothing  
 23 in this paragraph shall be construed as authorizing  
 24 an insurer or health carrier to disregard such pro-  
 25 vided evidence.

1 **SEC. 404. INSURANCE PROTOCOLS FOR SUBJECTS OF**  
2 **ABUSE.**

3 Insurers shall develop and adhere to written policies  
4 specifying procedures to be followed by employees, con-  
5 tractors, producers, agents, and brokers for the purpose  
6 of protecting the safety and privacy of a subject of abuse  
7 and otherwise implementing this title when taking an ap-  
8 plication, investigating a claim, or taking any other action  
9 relating to a policy or claim involving a subject of abuse.

10 **SEC. 405. REASONS FOR ADVERSE ACTIONS.**

11 An insurer that takes an action that adversely affects  
12 a subject of abuse, shall advise the subject of abuse appli-  
13 cant or insured of the specific reasons for the action in  
14 writing. For purposes of this section, reference to general  
15 underwriting practices or guidelines shall not constitute  
16 a specific reason.

17 **SEC. 406. LIFE INSURANCE.**

18 Nothing in this title shall be construed to prohibit  
19 a life insurer from declining to issue a life insurance policy  
20 if the applicant or prospective owner of the policy is or  
21 would be designated as a beneficiary of the policy, and  
22 if—

23 (1) the applicant or prospective owner of the  
24 policy lacks an insurable interest in the insured; or

25 (2) the applicant or prospective owner of the  
26 policy is known, on the basis of police or court

1 records, to have committed an act of abuse against  
2 the proposed insured.

3 **SEC. 407. SUBROGATION WITHOUT CONSENT PROHIBITED.**

4 Subrogation of claims resulting from abuse is prohib-  
5 ited without the informed consent of the subject of abuse.

6 **SEC. 408. ENFORCEMENT.**

7 (a) FEDERAL TRADE COMMISSION.—

8 (1) IN GENERAL.—The Federal Trade Commis-  
9 sion shall have the power to examine and investigate  
10 any insurer to determine whether such insurer has  
11 been or is engaged in any act or practice prohibited  
12 by this title.

13 (2) CEASE AND DESIST ORDERS.—If the Fed-  
14 eral Trade Commission determines an insurer has  
15 been or is engaged in any act or practice prohibited  
16 by this title, the Commission may take action  
17 against such insurer by the issuance of a cease and  
18 desist order as if the insurer was in violation of sec-  
19 tion 5 of the Federal Trade Commission Act. Such  
20 cease and desist order may include any individual re-  
21 lief warranted under the circumstances, including  
22 temporary, preliminary, and permanent injunctive  
23 and compensatory relief.

24 (b) PRIVATE CAUSE OF ACTION.—

1           (1) IN GENERAL.—An applicant or insured who  
2           believes that the applicant or insured has been ad-  
3           versely affected by an act or practice of an insurer  
4           in violation of this title may maintain an action  
5           against the insurer in a Federal or State court of  
6           original jurisdiction.

7           (2) RELIEF.—Upon proof of such conduct by a  
8           preponderance of the evidence in an action described  
9           in paragraph (1), the court may award appropriate  
10          relief, including temporary, preliminary, and perma-  
11          nent injunctive relief and compensatory and punitive  
12          damages, as well as the costs of suit and reasonable  
13          fees for the aggrieved individual’s attorneys and ex-  
14          pert witnesses.

15          (3) STATUTORY DAMAGES.—With respect to  
16          compensatory damages in an action described in  
17          paragraph (1), the aggrieved individual may elect, at  
18          any time prior to the rendering of final judgment, to  
19          recover in lieu of actual damages, an award of statu-  
20          tory damages in the amount of \$5,000 for each vio-  
21          lation.

22   **SEC. 409. EFFECTIVE DATE.**

23          This title shall apply with respect to any action taken  
24          on or after the date of enactment of this Act.

1     **TITLE V—WORKPLACE SAFETY**  
 2             **PROGRAM TAX CREDIT**

3     **SEC. 501. CREDIT FOR COSTS TO EMPLOYERS OF IMPE-**  
 4             **MENTING WORKPLACE SAFETY PROGRAMS.**

5             (a) IN GENERAL.—Subpart D of part IV of sub-  
 6 chapter A of chapter 1 of the Internal Revenue Code of  
 7 1986 (relating to business related credits) is amended by  
 8 adding at the end the following:

9     **“SEC. 45G. WORKPLACE SAFETY PROGRAM CREDIT.**

10            “(a) IN GENERAL.—For purposes of section 38, the  
 11 workplace safety program credit determined under this  
 12 section for the taxable year is, for any employer, an  
 13 amount equal to 40 percent of the domestic and sexual  
 14 violence safety and education costs paid or incurred by  
 15 such employer during the taxable year.

16            “(b) DEFINITIONS.—For purposes of this section—

17                    “(1) DOMESTIC AND SEXUAL VIOLENCE SAFETY  
 18                    AND EDUCATION COST.—

19                            “(A) IN GENERAL.—The term ‘domestic  
 20                            and sexual violence safety and education cost’  
 21                            means any cost certified by the Secretary of  
 22                            Labor to the Secretary as being for the purpose  
 23                            of—

24                                    “(i) ensuring the safety of employees  
 25                                    from domestic or sexual violence,

1           “(ii) providing assistance to employees  
2           and the spouses and dependents of employ-  
3           ees with respect to domestic or sexual vio-  
4           lence,

5           “(iii) providing legal or medical serv-  
6           ices to employees and the spouses and de-  
7           pendents of employees subjected to, or at  
8           risk from, domestic or sexual violence,

9           “(iv) educating employees about the  
10          issue of domestic or sexual violence, or

11          “(v) implementing human resource or  
12          personnel policies initiated to protect em-  
13          ployees from domestic or sexual violence or  
14          to support employees who have been vic-  
15          tims of domestic or sexual violence.

16          “(B) TYPES OF COSTS.—Such term in-  
17          cludes costs certified by the Secretary of Labor  
18          to the Secretary as being for the purpose of—

19               “(i) the hiring of new security per-  
20               sonnel in order to address domestic or sex-  
21               ual violence,

22               “(ii) the creation of buddy systems or  
23               escort systems for walking employees to  
24               parking lots, parked cars, subway stations,

1 or bus stops, in order to address domestic  
2 or sexual violence,

3 “(iii) the purchase or installation of  
4 new security equipment, including surveil-  
5 lance equipment, lighting fixtures, cardkey  
6 access systems, and identification systems,  
7 in order to address domestic or sexual vio-  
8 lence,

9 “(iv) the establishment of an employee  
10 assistance line or other employee assist-  
11 ance services, in order to address domestic  
12 or sexual violence, for the use of individual  
13 employees, including counseling or referral  
14 services undertaken in consultation and co-  
15 ordination with national, State, or local do-  
16 mestic violence coalitions, sexual assault  
17 coalitions, domestic violence programs, or  
18 sexual assault programs,

19 “(v) the retention of an attorney to  
20 provide legal services to employees seeking  
21 restraining orders or other legal recourse  
22 from domestic or sexual violence,

23 “(vi) the establishment of medical  
24 services addressing the medical needs of

1 employees who are victims of domestic or  
2 sexual violence,

3 “(vii) the retention of a financial ex-  
4 pert or an accountant to provide financial  
5 counseling to employees seeking to escape  
6 from domestic or sexual violence,

7 “(viii) the establishment of an edu-  
8 cation program for employees, consisting of  
9 seminars or training sessions about domes-  
10 tic or sexual violence undertaken in con-  
11 sultation and coordination with national,  
12 State, or local domestic violence coalitions,  
13 sexual assault coalitions, domestic violence  
14 programs, or sexual assault programs,

15 “(ix) studies of the cost, impact, or  
16 extent of domestic or sexual violence at the  
17 employer’s place of business, if such stud-  
18 ies are made available to the public and  
19 protect the identity of employees included  
20 in the study,

21 “(x) the publication of a regularly dis-  
22 seminated newsletter or other regularly  
23 disseminated educational materials about  
24 domestic or sexual violence,



1           “(xi) the implementation of leave poli-  
2           cies for the purpose of allowing or accom-  
3           modating the needs of victims of domestic  
4           or sexual violence to pursue counseling,  
5           legal assistance, or safety planning, includ-  
6           ing leave from work to attend meetings  
7           with attorneys, to give evidentiary state-  
8           ments or depositions, and to attend hear-  
9           ings or trials in court,

10           “(xii) the implementation of flexible  
11           work policies for the purpose of allowing or  
12           accommodating the needs of employees  
13           who are victims of domestic or sexual vio-  
14           lence, or employees at risk with respect to  
15           such crimes, to avoid assailants,

16           “(xiii) the implementation of transfer  
17           policies for the purpose of allowing or ac-  
18           commodating the needs of employees sub-  
19           jected to domestic or sexual violence to  
20           change office locations within the company  
21           in order to avoid assailants or to allow the  
22           transfer of an employee who has per-  
23           petrated domestic or sexual violence in  
24           order to protect the victim, including pay-  
25           ment of costs for the transfer and reloca-

tion of an employee to another city, county, State, or country for the purpose of maintaining an employee's safety from domestic or sexual violence, or

“(xiv) the provision of any of the services described in clauses (iv) through (viii) to the spouses or dependents of employees.

“(C) NOTIFICATION OF POSSIBLE TAX CONSEQUENCES.—In no event shall any cost for goods or services which may be included in the income of any employee receiving or benefiting from such goods or services be treated as a domestic and sexual violence safety and education cost unless the employer notifies the employee in writing of the possibility of such inclusion.

“(2) DOMESTIC OR SEXUAL VIOLENCE.—The term ‘domestic or sexual violence’ means domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in section 3 of the Security and Financial Empowerment Act.

“(3) DOMESTIC VIOLENCE COALITION; SEXUAL ASSAULT COALITION.—The terms ‘domestic violence coalition’ and ‘sexual assault coalition’ have the meanings given the terms in section 3 of the Security and Financial Empowerment Act.

1           “(4) EMPLOYEE.—The term ‘employee’ means  
 2           a person who is an employee, as defined in section  
 3           3(9) of the Security and Financial Empowerment  
 4           Act, except that the person may be employed by any  
 5           employer described in paragraph (5).

6           “(5) EMPLOYER.—The term ‘employer’ means  
 7           a person who is an employer, as defined in section  
 8           3(10) of such Act, determined without regard to the  
 9           number of individuals employed.

10          “(c) COORDINATION WITH OTHER PROVISIONS.—No  
 11          credit or deduction shall be allowed under any other provi-  
 12          sion of this title for any amount for which a credit is al-  
 13          lowed under this section.”.

14          (b) TREATMENT AS GENERAL BUSINESS CREDIT.—

15               (1) IN GENERAL.—Subsection (b) of section 38  
 16               of the Internal Revenue Code of 1986 (relating to  
 17               general business credit) is amended by striking  
 18               “plus” at the end of paragraph (14), by striking the  
 19               period at the end of paragraph (15) and inserting “,  
 20               plus”, and by adding at the end the following:

21                       “(16) the workplace safety program credit de-  
 22                       termined under section 45G.”.

23               (2) TRANSITIONAL RULE FOR CARRYBACKS.—

24               Subsection (d) of section 39 of such Code (relating

1 to transitional rules) is amended by adding at the  
 2 end the following:

3 “(11) NO CARRYBACK OF SECTION 45G CREDIT  
 4 BEFORE EFFECTIVE DATE.—No portion of the un-  
 5 used business credit for any taxable year which is  
 6 attributable to the workplace safety program credit  
 7 determined under section 45G may be carried back  
 8 to a taxable year beginning before January 1,  
 9 2004.”.

10 (3) DEDUCTION FOR UNUSED CREDITS.—Sub-  
 11 section (c) of section 196 of such Code (relating to  
 12 deduction for certain unused business credits) is  
 13 amended by striking “and” at the end of paragraph  
 14 (9), by striking the period at the end of paragraph  
 15 (10) and inserting “, and”, and by adding at the  
 16 end the following:

17 “(11) the workplace safety program credit de-  
 18 termined under section 45G.”.

19 (c) CREDIT NOT A DEFENSE IN LEGAL ACTIONS.—  
 20 The allowance of a credit under section 45G of the Inter-  
 21 nal Revenue Code of 1986 (as added by this section) shall  
 22 not absolve employers of their responsibilities under any  
 23 other law and shall not be construed as a defense to any  
 24 legal action (other than legal action by the Secretary of  
 25 the Treasury under such Code).

1 (d) CLERICAL AMENDMENT.—The table of sections  
 2 for subpart D of part IV of subchapter A of chapter 1  
 3 of the Internal Revenue Code of 1986 is amended by add-  
 4 ing at the end the following:

“Sec. 45G. Workplace safety program credit.”.

5 (e) EFFECTIVE DATE.—The amendments made by  
 6 this section shall apply to taxable years beginning after  
 7 December 31, 2003.

8 **TITLE VI—NATIONAL CLEARING-**  
 9 **HOUSE ON DOMESTIC AND**  
 10 **SEXUAL VIOLENCE IN THE**  
 11 **WORKPLACE GRANT**

12 **SEC. 601. NATIONAL CLEARINGHOUSE ON DOMESTIC AND**  
 13 **SEXUAL VIOLENCE IN THE WORKPLACE**  
 14 **GRANT.**

15 (a) AUTHORITY.—The Attorney General may award  
 16 a grant in accordance with this section to a private, non-  
 17 profit entity or tribal organization that meets the require-  
 18 ments of subsection (b), in order to provide for the estab-  
 19 lishment and operation of a national clearinghouse and re-  
 20 source center to provide information and assistance to em-  
 21 ployers, labor organizations, and advocates on behalf of  
 22 victims of domestic or sexual violence, in their efforts to  
 23 develop and implement appropriate responses to assist  
 24 those victims.

1 (b) GRANTEES.—Each applicant for a grant under  
2 this section shall submit to the Attorney General an appli-  
3 cation, which shall—

4 (1) demonstrate that the applicant—

5 (A) has a nationally recognized expertise in  
6 the area of domestic violence, dating violence,  
7 sexual assault, and stalking, and a record of  
8 commitment and quality responses to reduce  
9 domestic violence, dating violence, sexual as-  
10 sault, and stalking; and

11 (B) will provide matching funds from non-  
12 Federal sources in an amount equal to not less  
13 than 10 percent of the total amount of the  
14 grant awarded under this section; and

15 (2) include a plan to maximize, to the extent  
16 practicable, outreach to employers (including private  
17 companies, as well as public entities such as univer-  
18 sities, and State and local governments) in devel-  
19 oping and implementing appropriate responses to as-  
20 sist employees who are victims of domestic or sexual  
21 violence.

22 (c) USE OF GRANT AMOUNT.—A grant under this  
23 section may be used for staff salaries, travel expenses,  
24 equipment, printing, and other reasonable expenses nec-  
25 essary to assemble, maintain, and disseminate to employ-

ers, labor organizations, and advocates described in subsection (a), information on and appropriate responses to domestic violence, dating violence, sexual assault, and stalking, including—

(1) training to promote a better understanding of appropriate assistance to employee victims;

(2) conferences and other educational opportunities;

(3) development of protocols and model workplace policies;

(4) employer- and union-sponsored victim services and outreach counseling; and

(5) assessments of the workplace costs of domestic violence, dating violence, sexual assault, and stalking.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$500,000 for each of fiscal years 2004 through 2008.

## **TITLE VII—SEVERABILITY**

### **SEC. 701. SEVERABILITY.**

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of the provisions of this Act, the amendments made by this Act, and the application of such

- 1 provisions or amendments to any person or circumstance
- 2 shall not be affected.

